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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,750	02/06/2002	Hideki Kishi	2002_0210A	4772

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EXAMINER

LUK, LAWRENCE W

ART UNIT	PAPER NUMBER
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2838

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,750

Applicant(s)

KISHI ET AL.

Examiner

Lawrence W Luk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 3,4,6,8,11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, 7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by van Phuoc et al. (5,796,239).

In regard to claim 1, van Phuoc et al. shows a residual capacity correction method for a battery comprising: making a count of one cycle each time an accumulated quantity of a charge capacity of a battery reaches a set capacity (refer to col. 30, line 14-40); and decreasing a learning capacity by a specified cycle degradation capacity per charge of the one cycle (refer to col.7, lines 34-47).

In regard to claims 2 and 10, van Phuoc et al. shows the set capacity is the learning capacity of the battery (refer to col.24, lines 10-14).

In regard to claims 5 and 7, van Phuoc et al. shows a decreasing rate of the learning capacity as a keeping degradation capacity while the keeping temperature and a residual capacity of the battery are used as parameters (refer to col.27, lines 5-50); and decreasing, as keeping time passes, the learning capacity by the keeping degradation capacity specified from the temperature and the residual capacity of the battery (refer to col.8, lines 29-39).

In regard to claim 9, van Phuoc et al. shows a count of one cycle is made each time an accumulated quantity of a charge capacity of the battery reaches a set capacity (refer to col.7,

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lines 34-47 and col.30, lines 45-60).

Allowable Subject Matter

3. Claims 3, 4, 6, 8, 11 and 12 are objected to as being dependent upon a rejected base claim. The prior art of record fails to teach or reasonably suggest that

As to claims 3, 6, 8 and 11, a residual capacity for a battery is keeping degradation capacity per unit time and the cycle degradation capacity is made 0.003 to 0.15% of the learning capacity of the battery.

As to claims 4 and 12, the battery is a lithium ion secondary battery. Hagiwara et al. shows the battery is a lithium ion secondary battery

Claims 3, 4, 6, 8, 11 and 12 would be allowable if rewritten in independent form including all of the limitations of the base claim.

Conclusion

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Luk whose telephone number is (703)305-0617. The examiner can normally be reached on 7 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on (703) 308-1680. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703)305-7724 for regular communications and (703)305-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1782.

LWL

November 25, 2003

Lawrence Rusk
examiner
11/25/03